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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,547	03/08/2002	Hirotooshi Fukunaga	2002-0323A	8805
513	7590	08/26/2004	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P.			PHAN, THIEM D	
2033 K STREET N. W.			ART UNIT	
SUITE 800			PAPER NUMBER	
WASHINGTON, DC 20006-1021			3729	

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/092,547

Applicant(s)

FUKUNAGA ET AL.

Examiner

Tim Phan

Art Unit

3729

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1,2,4-12,14,18,19 and 21-23.Claim(s) withdrawn from consideration: 15-17.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: _____




CARL J. ARBES
PRIMARY EXAMINER

Continuation of 10:

Applicants' remarks filed on July 9th 2004 re-traversing Claims 1, 2, 4-12, 14, 18, 19 and 21-23 are hold not to be persuasive for the following reasons:

Applicants' recitation "... laser abration process ..." (Cf. Claims 1 and 18, line 4) and remarks "... deposition by laser abration "(Cf. Remarks, page 10, line 9) introduce new matter prohibited under 35 USC 132, specially with the wording "abration" which has no apparent english meaning and puts the Examiner at a loss to understandi what is intended.

Re. Applicants' remarks concerning an error in the disclosure (Cf. Specification, page 2, line 9; Remarks, page 8, paragraph 6); the Patent Office requires that the later-filed application must be an application for a patent or an invention which is also disclosed in the prior application (the parent, original nonprovisional application or provisional application); the disclosure of the invention or the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. (Cf. Transco Products, Inc. v. Performance Contracting, Inc., 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994)) and no amendment may introduce new matter into the disclosure of an application after its filing date.

Furthermore, the Patent Office saith not.



Tim Phan
Examiner
Art Unit 3729

tp
August 23, 2004


CARL J. ARBES
PRIMARY EXAMINER